

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT

for the

United States Courts
Southern District of Texas
FILED

APR 30 2018

David J. Bradley, Clerk of Court

NGAN THANH NGUYEN

Petitioner

v.

Case No.

18-1362

(Supplied by Clerk of Court)

JEFF SESSION

Respondent

(name of warden or authorized person having custody of petitioner)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: NGAN THANH NGUYEN
 (b) Other names you have used: BRIAN
2. Place of confinement:
 (a) Name of institution: CORE CIVIC
 (b) Address: 15850 EXPORT PLAZA DRIVE
HOUSTON, TEXAS 77032
 (c) Your identification number: A# 022017268
3. Are you currently being held on orders by:
☒ Federal authorities ☐ State authorities ☐ Other - explain:

4. Are you currently:
☐ A pretrial detainee (waiting for trial on criminal charges)
☐ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
 If you are currently serving a sentence, provide:
 (a) Name and location of court that sentenced you: _____
 (b) Docket number of criminal case: _____
 (c) Date of sentencing: _____
☐ Being held on an immigration charge
☒ Other (explain): BEING HELD BY ICE ON INDEFINATE DETENTION AFTER
FINAL ORDER OF REMOVAL.

Decision or Action You Are Challenging

5. What are you challenging in this petition:

- ☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)
- ☐ Pretrial detention
- ☒ Immigration detention
- ☐ Detainer
- ☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
- ☐ Disciplinary proceedings
- ☐ Other (explain): _____

6. Provide more information about the decision or action you are challenging:

- (a) Name and location of the agency or court: DHS/ICE
- (b) Docket number, case number, or opinion number: N/A
- (c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):
INDEFINITE DETENTION
- (d) Date of the decision or action: 01-02-2018

Your Earlier Challenges of the Decision or Action7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☒ Yes ☐ No

(a) If "Yes," provide:

- (1) Name of the authority, agency, or court: ICE
- (2) Date of filing: 03-29-2018
- (3) Docket number, case number, or opinion number: N/A
- (4) Result: NO RESPONSE
- (5) Date of result: N/A
- (6) Issues raised: RELEASE ON SUPERVISION

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(b) If you answered "No," explain why you did not appeal:

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☒ Yes

☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: DHS/ICE

(2) Date of filing: 03-26-2018

(3) Docket number, case number, or opinion number: N/A

(4) Result: NO RESPONSE

(5) Date of result: N/A

(6) Issues raised: RELEASE ON SUPERVISION UNDER ZADYDAS V. DAVIS, 539 U.S. 678 (2001).

(b) If you answered "No," explain why you did not file a second appeal:

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☒ Yes

☒ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: DHS/ICE HQPDU

(2) Date of filing: 04-11-2018

(3) Docket number, case number, or opinion number: N/A

(4) Result: NO RESPONSE

(5) Date of result: N/A

(6) Issues raised: RELEASE ON SUPERVISION UNDER ZADYDAS V. DAVIS.

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(b) If you answered "No," explain why you did not file a third appeal:

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes ☒ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes ☐ No

If "Yes," provide:

(1) Name of court:

(2) Case number:

(3) Date of filing:

(4) Result:

(5) Date of result:

(6) Issues raised:

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes ☐ No

If "Yes," provide:

(1) Name of court:

(2) Case number:

(3) Date of filing:

(4) Result:

(5) Date of result:

(6) Issues raised:

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- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: _____
- _____
- _____
- _____
- _____
- _____
- _____

11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

☐ Yes ☒ No

If "Yes," provide:

- (a) Date you were taken into immigration custody: _____
- (b) Date of the removal or reinstatement order: _____
- (c) Did you file an appeal with the Board of Immigration Appeals?
- ☐ Yes ☐ No

If "Yes," provide:

- (1) Date of filing: _____
- (2) Case number: _____
- (3) Result: _____
- (4) Date of result: _____
- (5) Issues raised: _____
- _____
- _____
- _____
- _____

- (d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes ☐ No

If "Yes," provide:

- (1) Name of court: _____
- (2) Date of filing: _____
- (3) Case number: _____

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- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____
- _____
- _____
- _____
- _____

12. Other appeals

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes ☒ No

If "Yes," provide:

- (a) Kind of petition, motion, or application: _____
- (b) Name of the authority, agency, or court: _____
- _____
- (c) Date of filing: _____
- (d) Docket number, case number, or opinion number: _____
- (e) Result: _____
- (f) Date of result: _____
- (g) Issues raised: _____
- _____
- _____
- _____
- _____
- _____
- _____

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: STATUTORY VIOLATION UNDER THE DUE PROCESS CLAUSE OF
THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION.

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(a) Supporting facts *(Be brief. Do not cite cases or law.):*

THE RESPONDENTS ARE IN VIOLATION OF THE FOLLOWING STATUTES BY PETITIONER'S INDEFINITE DETENTION:

TITLE 8 U.S.C. § 1231 (a)(1)

TITLE 8 U.S.C. § 1231 (a)(2)

TITLE 8 U.S.C. § 1231 (a)(3).

SEE MEMORANDUM IN SUPPORT.

(b) Did you present Ground One in all appeals that were available to you?

☐ Yes☒ No

GROUND TWO: SUBSTANTIVE DUE PROCESS VIOLATION, THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION

(a) Supporting facts *(Be brief. Do not cite cases or law.):*

THE PETITIONER IS BEING SUBJECTED TO INDEFINITE DETENTION BY THE RESPONDENTS. PETITIONER HAS BEEN IN DETENTION SINCE 01-02-2018 IN ADDITION TO APPROXIMATELY 14 MONTHS HE HAD BEEN DETAINED PREVIOUSLY UNDER THE SAME REMOVAL PROCESS. SEE MEMORANDUM IN SUPPORT.

(b) Did you present Ground Two in all appeals that were available to you?

☐ Yes☒ No

GROUND THREE: PROCEDURAL DUE PROCESS VIOLATION UNDER THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION

(a) Supporting facts *(Be brief. Do not cite cases or law.):*

THE PETITIONER HAS BEEN DENIED A TIMELY AND MEANINGFUL OPPORTUNITY TO DEMONSTRATE THAT HE SHOULD NOT BE DETAINED BECAUSE THERE IS NO APPEAL AND ICE DOES NOT MAKE DECISIONS CONCERNING PETITIONER'S CUSTODY STATUS IN A NEUTRAL AND IMPARTIAL LIGHT. SEE MEMORANDUM IN SUPPORT

(b) Did you present Ground Three in all appeals that were available to you?

☐ Yes☒ No

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GROUND FOUR: N/A

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

N/A

(b) Did you present Ground Four in all appeals that were available to you?

☐ Yes

☒ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not: N/A

Request for Relief

15. State exactly what you want the court to do: GRANT PETITIONER A WRIT OF HABEAS CORPUS
DIRECTING THE RESPONDENTS TO IMMEDIATELY RELEASE THE PETITIONER FROM
CUSTODY UNDER REASONABLE CONDITION OF SUPERVISION.

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Declaration Under Penalty Of Perjury

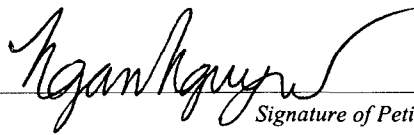
If you are incarcerated, on what date did you place this petition in the prison mail system:

April 26, 2018

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date:

4/26/18



Signature of Petitioner

Signature of Attorney or other authorized person, if any